IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 397 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

TATA CHEMICALS LIMITED

Versus

STATE OF GUJARAT

Appearance:

1. Appeal from Order No. 397 of 1999

MR SHIRISH JOSHI for Petitioner No. 1

MR KC SHAH AGO for Respondent No. 1

NOTICE SERVED for Respondent No. 2

MR PV HATHI for Respondent No. 3

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 11/10/2001

ORAL JUDGEMENT

This appeal is arising out of the impugned order

dated 2.8.1999 passed by the learned Civil Judge (S.D.), Jam Kambalia dismissing application Ex.5 in Special Civil Suit No.3 of 1999.

The learned Judge dismissed application Ex.5 as according to him the appellant-plaintiff failed to establish prima facie case in its favour and the balance of convenience was also not in its favour and no irreparable loss would be caused. While dismissing application Ex.5 the learned Judge asked the respondent No.3 to file undertaking to the effect that in case if the plaintiff succeeds in the suit the entire amount deposited by the plaintiff shall be refunded to it with the interest.

Accordingly, along with the letter dated 12.8.1999 the appellant-plaintiff company paid the amount of Rs.15,26,602/= by way of land revenue under protest with a view to ensure smooth functioning of the company's operations and to maintain cordial relations with the Taluka Development Officer, Dwarka.

Thus, in sum and substance the impugned order passed by the learned trial judge is complied with. It is true that under protest the appellant company has paid the amount but in my considered opinion once the appellant company has deposited the entire amount towards land revenue and in turn the undertaking is filed by the defendant No.3 before the trial court then this appeal does not survive anymore and it would become infructuous. Hence, without going into the legality and validity of the order passed by the learned Judge this appeal is required to be disposed of.

However, Mr.Joshi, learned counsel for the appellant-plaintiff vehemently submitted that the manner in which the Taluka Development officer acted in the matter is required to be viewed seriously and his conduct is required to be condemned in strong words. As against that learned counsel Shri Hathi appearing for respondent No.3-officer submitted that except discharging his duty he has not done anything in the matter. Be that as it may. Once the matter does not survive any more then, no opinion is required to be expressed by me on the conduct of the officer. However, I must state that Mr.Hathi for the respondent No.3 assured this court that in future this will not happen. With these observations, this appeal is dismissed.

At this stage, a request is made by learned counsel Shri Joshi for early disposal of the main Civil

Suit No.3 of 1999 as early as possible. This request seems to be genuine and the learned trial Judge is directed to dispose of main Special Civil Suit No.3 of 1999 as early as possible and not later than 31.12.2002. Both the parties shall fully cooperate with the final disposal of the suit.

(B.J.Shethna, J.)

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